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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,102	10/28/2003	Mark E. Tuttle	MI40-363	6610
7590	09/17/2007		EXAMINER	
WELLS ST. JOHN P.S. 601 WEST 1ST AVENUE SUITE 1300 SPOKANE, WA 99201-3828			ZIMMERMAN, BRIAN A	
			ART UNIT	PAPER NUMBER
			2612	
			MAIL DATE                    DELIVERY MODE	
			09/17/2007                    PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/696,102	TUTTLE ET AL.	
	<b>Examiner</b> Brian A. Zimmerman	<b>Art Unit</b> 2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 July 2007.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 15-74 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 15-41,54-68 and 70-74 is/are allowed.
- 6) Claim(s) 42-53,69 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 14 July 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____                          |

***Status of Application***

In response to the applicant's amendment received on 7/19/07. The examiner has considered the new presentation of claims and applicant arguments in view of the disclosure and the present state of the prior art. And it is the examiner's position that claims 15-68 are unpatentable for the reasons set forth in this office action:

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 103***

1. Claims 42-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schuermann (5491484) in view of Kulka (5483827).

Schuermann shows a transponder, figure 3 for identification of an object (col. 6 lines 21+). The transponder 12 includes an antenna 133. Note that figure 3's illustration appears to describe element 10, but the description starting on col. 4 line 58 clearly discusses that the transponder 12 is depicted in figure 3. The device includes a power source col. 2 lines 19+. The antenna is coupled to a transmitter/receiver circuit (dashed line box of figure 3) and responds in a backscatter manner. The transponder circuit is selectively tuned within a range of tuned and detuned states to realize a desired sensitivity response to an interrogation signal transmitted by the interrogation unit. The tuning is accomplished by configuring the conduction of the circuit, this is accomplished

by switching elements (each pair of elements 240 and 242 forms a fixed circuit network) using the latch 244. See col. 3 lines 60 to col. 4 line 10.

Schuermann differs from the claimed invention in that the claims call for the transponder to be a monolithic semiconductor integrated circuit device. In an analogous art, Kulka provides evidence that single IC RFID devices were known and available as early as June 1994 (the filing date of Kulka). Kulka shows a battery 14 used to power the transponder IC, see col. 5 lines 1-2. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have made the transponder circuits of Schuermann on a single IC as suggested by Kulka, since such would reduce the size and manufacturing considerations of the transponder of Schuermann.

### ***Response to Arguments***

Applicant's arguments filed 7/17/07 have been fully considered but they are not persuasive.

Regarding claims 42-53 and 69, the applicant argues that neither Schuermann nor Kulka disclose a backscatter transmitter. The applicant states that Schuermann's responder unit stores energy received from an interrogator unit in an energy accumulator. The applicant then argues that Schuermann's responder is not a backscatter transmitter because it uses the stored energy to generate its own CW signal rather than selectively reflect a CW signal transmitted by the interrogator.

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It is pointed out that the claims do not recite any limitations directed to selectively reflecting a CW signal transmitted by the interrogator. The applicant is arguing the term backscatter transmitter includes these limitations. This is not the case. The term backscatter transmitter is broader than the applicant argues. It is the examiner's position that any tag that senses an interrogating RF wave and responds by transmitting back another RF wave, is a process known as backscatter. Backscatter may take place in a number of ways. The response may further encode a number stored internally in the tag.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian A. Zimmerman whose telephone number is 571-272-3059. The examiner can normally be reached on 7 am to 4 pm E.S.T.

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The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Brian A Zimmerman  
Primary Examiner  
Art Unit 2612

BZ

